

DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW

ORIGINAL

J. G. HARRINGTON
DIRECT DIAL 202-776-2818
jharrington@dowlohn.com

WASHINGTON, D.C.
1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222
www.dowlohn.com

ONE RAVINIA DRIVE • SUITE 1600
ATLANTA, GEORGIA 30346-2108
TELEPHONE 770-901-8800
FACSIMILE 770-901-8874

DOCKET FILE COPY ORIGINAL

September 1, 2005

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW, Room 8B201
Washington, DC 20554

RECEIVED
SEP - 1 2005
Federal Communications Commission
Office of Secretary

Re: Cox Communications, Inc. and Its Affiliates
WC Docket No. 05-196
Subscriber Acknowledgment Report – September 1, 2005

Dear Ms. Dortch:

I am writing this letter on behalf of our client Cox Communications, Inc. and its affiliates (collectively "Cox"), to provide information pursuant to the Commission's August 26, 2005 Public Notice (the "Notice") in the above-referenced proceeding. We deeply appreciate that the Enforcement Bureau noted the significant effort of voice over IP ("VoIP") providers to comply with the VoIP Enhanced 911 rules and the Public Notice of July 26th. As detailed below, Cox has made extraordinary efforts to comply with the rules and to obtain acknowledgements from its VoIP subscribers, so much so that many of Cox's customers have complained about receiving too many communications from Cox. Cox can say with complete certainty that every Cox VoIP subscriber has received at least one notification containing the information required by the E911 rules.

As noted previously, Cox's affiliates provide switched telephone service to more than 1.4 million residential subscribers and 150,000 commercial locations across eleven states, using a mix of circuit switched and Internet Protocol technologies, and Cox's affiliates are certificated as local exchange carriers in each of those states. Cox's VoIP reliability is engineered to the same standard as Cox and other carriers' circuit-switched services. Additionally, Cox's VoIP service is sold as a stationary service and is not intended for nomadic use. Cox always has provided its subscribers with access to E911 (in areas where E911 is available) for both circuit switched and Internet Protocol telephone services, and its Internet Protocol telephone service already complies with the substantive requirements of the new rules. In that context, Cox provides the following information:

No. of Copies rec'd
List A B C D E

0+2

REDACTED – FOR PUBLIC INSPECTION

1. *A detailed explanation about current compliance if the provider did not notify and issue warning stickers to 100 percent of its subscribers by July 29, 2005.*

As reported in Cox's August 10, 2005 letter to the Commission, Cox provided notification and warning stickers to 100 percent of its subscribers by July 29, 2005

2. *Quantification of subscribers that have returned acknowledgments and estimate of percentage of subscribers from whom acknowledgments will not be received by September 28.*

Cox has received acknowledgments from [REDACTED] percent of its subscribers as of September 1.

Absent circumstances beyond its reasonable control, Cox expects that the actions outlined in this letter will result in receipt of acknowledgements from 100 percent of its subscribers by September 28, 2005.

3. *Actions Cox will take towards subscribers who do not return acknowledgments*

As discussed in Cox's August 10 letter, Cox has initiated a multi-step program to obtain acknowledgments of customers who had telephone service prior to July 29, with an initial letter and sticker, multiple (five) email requests of increasing urgency, continuing multiple telephone calls (up to three per day), and in-person contacts with commercial customers, plus ongoing attempts to educate and obtain acknowledgement from non-responders at every customer touch point. In addition, Cox sent a registered letter to all nonrespondents as of August 22, 2005. At this time Cox is awaiting additional acknowledgements that may be in transit and will initiate further tactics if necessary. Such additional methods could include further emails, in-person contacts and soft disconnects.

As of the writing of this letter, Cox has not received acknowledgements from 100 percent of its VoIP subscribers in Baton Rouge and Lafayette, Louisiana. Although some acknowledgements may still be in transit, Cox does not believe it will receive acknowledgments from 100 percent of its Louisiana VoIP subscribers. Due to the tragedy caused by Hurricane Katrina, clearly a circumstance beyond Cox's reasonable control, Cox is suspending all efforts to obtain any additional acknowledgements in Louisiana for the time being. Cox also notes that Louisiana Governor Blanco has issued an order that all telemarketing activities be suspended statewide until September 25. Consequently, to the extent that the Commission's E911 rules are deemed to apply to Cox's service, it seeks a waiver of the acknowledgment requirements for these markets until such time as it is feasible to obtain any remaining acknowledgments and in any event until at least 30 days after the telemarketing ban is lifted by Governor Blanco.

4. *Cox's plans to use soft disconnect.*

Although Cox anticipates obtaining acknowledgement from 100 percent of its VoIP subscribers absent circumstances beyond its reasonable control (except as described above for certain Cox customers in Louisiana), Cox continues to investigate whether it might be feasible to use a soft disconnect process. Subscribers subject to a soft disconnect would be able to make calls to 911, but all other calls would be diverted to an interactive voice response system or a live call center representative until Cox obtains an acknowledgment. Because of the technical challenges to create an automated process and the negative consequences associated with using a soft disconnect in this circumstance, Cox has not decided whether to use this tactic.

The use of soft disconnects to obtain subscriber acknowledgements raises potential issues for Cox under state utility law. In the absence of a decision by the FCC on the classification of VoIP, Cox had previously determined that it would design, market and operate its telephone services in VoIP markets with the same products, network interconnection and reliability as its circuit switched markets. Cox determined it would operate under the competitive local exchange company (LEC) rules and is a certificated carrier in each state in which it operates a VoIP service. Many states have disconnection rules that require a specific basis for disconnecting customers. In light of such rules, one state commission has informed Cox that it will sanction Cox if it implements even a soft disconnect for VoIP customers. In another state, the state commission requires that a company seeking to disconnect any customer under any circumstances must formally seek prior approval, which is a lengthy process.

Cox's CLEC tariffs, under which Cox operates in its VoIP and circuit switched systems, also constrain Cox's ability to disconnect customers. Actions such as failing to pay properly rendered bills, illegal activity, abuse of the Cox network or equipment, abuse of Cox employees or harassment of other customers are listed in Cox's tariffs as grounds for disconnecting customers. Failure to provide an acknowledgement of receipt of the E911 notice is not a ground for disconnection under Cox's tariffs. Consequently, such an interruption of service could be treated as a violation of those tariffs.

The soft disconnect process itself involves several steps. For each soft disconnect, Cox must create a work order to put a service code on the customer's account; must program its switch to limit the customer's service (e.g., no incoming calls, permit calls to 911, all other calls go to the Cox business office); and must have a process for reconnecting the customer. While Cox uses a manual version of soft disconnection as a customer retention tool, implementing soft disconnects on a large-scale basis would be extremely time-consuming and would require Cox to expend significant resources. Before beginning soft disconnects, Cox would have to work with its order management vendor to develop a program to generate work orders and would have to develop a specialized service code for its service provisioning platform with the features needed for this special soft disconnect. Cox also would have to develop a process to ensure that customers are reconnected as soon as possible after they provide acknowledgments. (Depending on the volume of customers involved and other

demands on Cox's operations, restoration could take anywhere from a few hours to a few days.) In addition to the costs associated with developing these processes, Cox also would have significant costs while the soft disconnects are in effect, including the costs of having dedicated specialized representatives available to accept the redirected calls, Cox's vendor costs for documenting the acknowledgement, and the costs of implementing reconnection.

Also at issue under any circumstance is the management of call volume. Both disconnects and reconnects take time, and will need to be worked in among other normal switch provisioning activity. Cox's specialized call center (for this purpose) and its third party vendor used for recording verification also have volume limitations. This means that any use of this tactic would have to be staged over days or even weeks (depending on the number of nonresponders).

Finally, the competitive effects of soft disconnection on Cox could be significant. Cox has built its reputation as a legitimate, facilities-based provider of telephone service by providing reliable service to customers that is comparable in quality to that of incumbent local exchange companies. Requiring Cox to disconnect customers who are receiving service – including E911 – that is fully comparable to that offered by incumbent LECs would create the inaccurate impression that Cox's service is inferior to incumbent LEC offerings. Indeed, incumbent LECs already are using the E911 issue in their marketing material even though Cox is fully E911 compliant in both its VoIP and circuit-switched markets.

As noted above, this notice is being submitted in accordance with the Commission's Notice. For the reasons described in Cox's August 10, 2005 filing in this matter, submission of this notice, however, does not concede the applicability of the VoIP E911 Order to Cox's voice over IP service, and Cox does not waive its rights in that regard.

Please inform me if any questions should arise in connection with this letter.

Respectfully submitted,



J.G. Harrington

Counsel to Cox Communications, Inc.

JGH/vll

cc: Byron McCoy
Kathy Berthot
Janice Myles
Best Copy and Printing (redacted version only)